

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
EASTERN WASHINGTON REGION
STATE OF WASHINGTON

FUTUREWISE,

Petitioner,

v.

BENTON COUNTY,

Respondent,

and

THE CITY OF KENNEWICK AND THE
KENNEWICK INDUSTRIAL DISTRICT, LLC

Intervenors.

Case No. 14-1-0003

ORDER FINDING COMPLIANCE

I. SYNOPSIS

On March 31, 2015, the Benton County Board of County Commissioners (BOCC) rescinded Resolution 2014-191 and associated Comprehensive County Plan Land Use Maps 4.0 and 4.6, figures 4-5 and 4-12 to remove 1,263 acres from the City of Kennewick's Urban Growth Area (UGA) . On May 19, 2015, the Growth Management Hearings Board (GMHB) held a telephonic Compliance Hearing. The GMHB finds and concludes Benton County is now in compliance with the Growth Management Act (GMA) regarding all matters in this case.

II. PROCEDURAL HISTORY

On March 4, 2014, pursuant to Resolution 2014-191, the Benton County BOCC expanded the UGA for the City of Kennewick by 1,263 acres by amending the County

1 Comprehensive Plan Land Use Maps 4.0 and 4.6, Figures 4-5 and 4-12, which changed the
2 plan preferred land use for this acreage from “GMA Agricultural” to “Industrial.”¹

3 Petitioner Futurewise appealed that decision to the Eastern Washington GMHB in the
4 Spring of 2014. On October 15, 2014, the Board issued an Order in this matter stating that
5 Resolution 2014-191 was non-compliant with the GMA and ordered Benton County to take
6 legislative action prior to April 13, 2015, to comply with the GMA regarding this matter.² By
7 an Order dated January 15, 2015, the Board determined Resolution 2014-191 to be invalid.³

8 On May 19, 2015, the Board held a telephonic Compliance Hearing. Charles Mosher
9 convened the conference as the Presiding Officer and Board members Margaret Pageler
10 and Raymond Paoletta also participated. The parties participating in this Compliance
11 Hearing were Petitioner Futurewise, appearing through its attorney Tim Trohimovich,
12 Respondent Benton County appearing through its attorney Ryan Brown, Intervenor City of
13 Kennewick represented by its attorney Kenneth Harper, Menke Jackson Beyer, LLP, and
14 Intervenor Kennewick Industrial District, LLC represented by its attorney Erin Anderson,
15 Stoel Rives LLP.
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17 III. DISCUSSION

18 Respondent Benton County reported that on March 31, 2015, the Benton County
19 BOCC took legislative action to achieve compliance with the GMA. The legislative action
20 consisted of the rescission of Resolution 2014-191 along with amending the County’s
21 Comprehensive Plan to remove the 1,263 acres from Kennewick’s UGA, by revising the
22 County Comprehensive Plan Land Use maps. These legislative actions were included in
23 Benton County Resolution 2015-256.⁴
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25 Petitioner Futurewise agreed with the Respondent that with the adoption of
26 Resolution 2015-256, which rescinded Resolution 2014-191, removed the 1,263 acres from
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30 ¹ Futurewise v. Benton Co., EWGMHB Case No. 14-1-0003, p.4 (October 15, 2014).

² Id, p. 37.

³ EWGMHB Order Issuing Determination of Invalidity, January 15, 2015.

⁴ Respondent Benton County’s Statement of Compliance Action Re Resolution 2014-191, dated April 13,
32 2015.

1 Kennewick's UGA. and designated this area as "GMA agriculture", Benton County has
2 achieved compliance with the GMA.⁵

3 **IX. ORDER**

4 The Board finds and concludes that Benton County is in compliance with the Growth
5 Management Act regarding all matters in this case. Case No. 14-1-0003 is closed.
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7 DATED this 20th day of May, 2015.
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Charles Mosher, Board Member

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Margaret Pageler, Board Member

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Raymond Paoella, Board Member
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18 **Note: This is a final decision and order of the Growth Management Hearings Board**
19 **issued pursuant to RCW 36.70A.300.⁶**
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29 ⁵ Futurewise's Concurrence in a Finding of Compliance, dated May 11, 2015.

30 ⁶ Should a party choose to do so, a motion for reconsideration must be filed with the Board and served on all
31 parties within ten days of mailing of the final order. WAC 242-03-830(1), WAC 242-03-840.

32 A party aggrieved by a final decision of the Board may appeal the decision to Superior Court within thirty
days as provided in RCW 34.05.514 or 36.01.050. See RCW 36.70A.300(5) and WAC 242-03-970.

It is incumbent upon the parties to review all applicable statutes and rules. The staff of the Growth
Management Hearings Board is not authorized to provide legal advice.